

<b>TO:</b> <b>Mail Stop 8</b> <b>Director of the U.S. Patent and Trademark Office</b> <b>P.O. Box 1450</b> <b>Alexandria, VA 22313-1450</b>	<b>REPORT ON THE</b> <b>FILING OR DETERMINATION OF AN</b> <b>ACTION REGARDING A PATENT OR</b> <b>TRADEMARK</b>
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In compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court for the District of Maryland on the following ☒ Patents or ☐ Trademarks:


DOCKET NO. MJG-11-1373	DATE FILED 5/20/11	U.S. DISTRICT COURT FOR THE DISTRICT OF MARYLAND 101 W. Lombard Street, Baltimore, MD 21201
PLAINTIFF  Wright Manufacturing, Inc.		DEFENDANT  The Toro Company, et al
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 6,438,931		
2 6,935,093		
3		
4		
5		

In the above-entitled case, the following patent(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading		
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK	
1			
2			
3			
4			
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In the above-entitled case, the following decision has been rendered or judgment issued:

DECISION/JUDGMENT
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CLERK Felicia C. Cannon	(BY) DEPUTY CLERK 	DATE 5/24/11
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continue to be willful, as Toro knew or should have known of the '093 patent and that its manufacture, advertising, inducements, and sales of the accused mowers would infringe the '093 patent, but Toro acted despite an objectively high likelihood that such activities would infringe the '093 patent.

45. The aforesaid infringing actions have had and continue to have the effect of damaging and irreparably harming Wright. Such infringement will continue unless defendants are preliminarily and/or permanently enjoined by this Court.

#### VI. MARKING AND JURY DEMAND

46. Wright has caused mowers that it makes and sells to be marked with each of the '931 and '093 patent numbers in accordance with 35 U.S.C. § 287.

47. Wright demands trial by jury of all issues so triable.

#### VII. PRAYER FOR RELIEF

WHEREFORE, Plaintiff Wright Manufacturing, Inc. prays that this Court enter a judgment that:

- a) Plaintiff's U.S. Letters Patent No. 6,438,931 is valid;
- b) Plaintiff's U.S. Letters Patent No. 6,438,931 has been infringed by defendants;
- c) Plaintiff's U.S. Letters Patent No. 6,935,093 is valid;
- d) Plaintiff's U.S. Letters Patent No. 6,935,093 has been infringed by defendants;
- e) Final and permanent injunction issue against any and all acts and conduct constituting infringement of one or more of the '931 and/or '093 patents pursuant to 35 U.S.C. §283;

- f) Preliminary and permanent injunctions enjoining and restraining Defendants, their officers, directors, agents, servants, employees, and all others acting under or through them, directly or indirectly, from infringing the '931 patent;
- g) Preliminary and permanent injunctions enjoining and restraining Defendants, their officers, directors, agents, servants, employees, and all others acting under or through them, directly or indirectly, from infringing the '093 patent;
- h) Plaintiff is entitled to an award of damages under 35 U.S.C. §284, adequate to fully compensate Plaintiff for Defendants' past and continuing acts of infringement for each of said patents, including Plaintiff's lost profits, and in any event no lower than a reasonable royalty, together with prejudgment interest, costs and disbursements as are to be determined by the Court;
- i) The acts and conduct of infringement of the '931 and/or '093 patents by Toro have been willful, deliberate, and intentional without adequate basis in any good faith belief that the patents were either invalid or not infringed by said acts and conduct, and that the Court shall determine to increase the damage award by up to three times the amount found or assessed for infringement of the patent(s) by Toro due to the willful nature of the infringement, pursuant to 35 U.S.C. §284;
- j) A judgment and order requiring Defendants to pay the costs of this action including disbursements if this case is exceptional pursuant to 35 U.S.C. §285;
- k) Any monetary relief awarded to Plaintiff be awarded with prejudgment and postjudgment interest; and

- l) Award such further relief to Plaintiff as the Court may deem just and proper under its jurisdiction in law and equity.

Respectfully submitted,

/s/ Joseph A. Rhoa

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Attorney for Plaintiff  
WRIGHT MANUFACTURING, INC.

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

WRIGHT MANUFACTURING, INC.  
(Maryland Corporation located in Frederick  
County)

Plaintiff

vs.

THE TORO COMPANY, and  
EXMARK MANUFACTURING  
COMPANY, INC.

Defendants

Civil Action No.

**COMPLAINT**

(Jury Trial)

Wright Manufacturing, Inc. (“Wright” or “Plaintiff”) brings this Complaint for patent infringement against The Toro Company (“Toro”) and Exmark Manufacturing Company, Inc. (“Exmark”) (collectively, Toro and Exmark are referred to as “Defendants”), as outlined below:

I. THE PARTIES

1. Plaintiff, Wright Manufacturing, Inc., is a corporation organized under the laws of the State of Maryland and has a principal place of business at 4600X Wedgewood Blvd., Frederick, Maryland 21703.

2. On information and belief, defendant The Toro Company is a corporation organized under the laws of Delaware and has a place of business at 8111 Lyndale Avenue South, Bloomington, Minnesota 55420-1196.
3. On information and belief, defendant Exmark Manufacturing Company, Inc. is a corporation organized under the laws of Nebraska and has a principal place of business at Industrial Park N.W., P.O. Box 808, Beatrice, Nebraska 68310.
4. On information and belief, Exmark is a wholly-owned subsidiary of Toro.

## II. JURISDICTION AND VENUE

5. This is an action for patent infringement of United States Patent Nos. 6,438,931 (Ex. 1) and 6,935,093 (Ex. 2).
6. This action arises under the Patent Laws of the United States, 35 U.S.C. § 1 et seq., including at least 35 U.S.C. §§ 271, 281, 283, and 284.
7. Jurisdiction of this Court is based upon the Patent Laws of the United States, Title 35, United States Code, and by Title 28, United States Code, §§ 1331 and 1338(a)
8. Venue lies in this District under 28 U.S.C. §§1391 and 1400(b).
9. Toro has made mowers, including Toro mowers referred to by the name “GrandStand,” within the United States.
10. Toro has sold mowers, including Toro mowers referred to by the name “GrandStand,” within the United States.

11. Toro has distributed and/or sold mowers, including Toro mowers referred to by the name "GrandStand," to a number of customers throughout the United States.
12. Toro has advertised and promoted on its website that a number of dealers in the State of Maryland carry, sell and offer for sale Toro mowers, including Toro mowers referred to by the name "GrandStand."
13. Dealers in Maryland, identified and promoted by Toro on its website, have offered to sell and sold Toro mowers in Maryland, including Toro mowers referred to by the name "GrandStand."
14. Toro has introduced mowers, including mowers referred to by the name "GrandStand," into the stream of commerce in the United States, via an established distribution network including distributors/dealers, so that a number of such mowers have made their way into the State of Maryland, and have ultimately been offered for sale and sold in Maryland.
15. Toro has caused mowers, including mowers referred to by the name "GrandStand," to be used, offered for sale, and sold within the United States including in the State of Maryland.
16. Exmark has made mowers, including Exmark mowers referred to by the name "Vantage," within the United States.
17. Exmark has sold mowers, including mowers referred to by the name "Vantage," within the United States.
18. Exmark has distributed and/or sold mowers, including mowers referred to by the name "Vantage," to a number of customers throughout the United States.

19. Exmark has advertised and promoted on its website that a number of dealers in the State of Maryland carry, sell and offer for sale Exmark mowers, including Exmark mowers referred to by the name "Vantage."

20. Dealers in Maryland, identified and promoted by Exmark on its website, have offered to sell and sold Exmark mowers in Maryland, including Exmark mowers referred to by the name "Vantage."

21. Exmark has introduced mowers, including Exmark mowers referred to by the name "Vantage," into the stream of commerce in the United States, via an established distribution network including distributors/dealers, so that a number of such mowers have made their way into the State of Maryland, and have ultimately been offered for sale and sold in Maryland.

22. Exmark has caused mowers, including mowers referred to by the name "Vantage," to be used, offered for sale, and sold within the United States including in the State of Maryland.

### III. THE PATENTS AT ISSUE

23. Plaintiff, Wright Manufacturing, Inc., is the holder of the entire right, title, and interest of each of United States Patent Nos. 6,438,931 (Ex. 1) and 6,935,093 (Ex. 2).

24. On August 27, 2002, United States Patent No. 6,438,931 (the '931 patent) (Ex. 1) was duly and legally issued by the United States Patent and Trademark Office (USPTO), and since that date said '931 patent has been assigned in full to Wright, and Wright has been and still is the sole owner of the entire right, title, and interest in and to the '931 patent with all rights pertaining thereto, including the right to bring this action and to collect damages for infringement pertaining thereto.



25. On August 30, 2005, United States Patent No. 6,935,093 (the '093 patent) (Ex. 2) was duly and legally issued by the United States Patent and Trademark Office (USPTO), and since that date said '093 patent has been assigned in full to Wright, and Wright has been and still is the sole owner of the entire right, title, and interest in and to the '093 patent with all rights pertaining thereto, including the right to bring this action and to collect damages for infringement pertaining thereto.

#### IV. COUNT 1 – INFRINGEMENT OF THE '931 PATENT

26. Paragraphs 1-25 and 46 are incorporated herein by reference as if fully set forth in this section.

27. Defendant Toro has been and still is infringing the aforesaid '931 patent under at least 35 U.S.C. §271 by at least selling, advertising, promoting, offering to sell, making, using, causing to be made, causing to be sold, and/or causing to be used mowers in the United States, exemplified by, but not limited to, so-called GrandStand mowers, which fall within the scope of protection of the '931 patent. The infringement of the '931 patent is literal and/or under the doctrine of equivalents.

28. Defendant Toro has been and still is infringing the aforesaid '931 patent under at least 35 U.S.C. §271(a) by one or more of making, using, offering to sell, and/or selling mowers, including GrandStand mowers, within the United States.

29. Defendant Toro has been and still is infringing the aforesaid '931 patent under at least 35 U.S.C. §271(b) and/or §271(c) by one or more of: aiding and causing operators to use mowers, including GrandStand mowers, within the United States; aiding and causing distributors and/or dealers to sell and offer to sell mowers, including GrandStand mowers, within the United States;

and aiding and causing Exmark to make and sell mowers, including Vantage mowers, within the United States.

30. Defendant Exmark has been and still is infringing the aforesaid '931 patent under at least 35 U.S.C. §271 by at least selling, advertising, promoting, offering to sell, making, using, causing to be made, causing to be sold, and/or causing to be used mowers in the United States, exemplified by, but not limited to, so-called Vantage mowers, which fall within the scope of protection of the '931 patent. The infringement of the '931 patent is literal and/or under the doctrine of equivalents.

31. Defendant Exmark has been and still is infringing the aforesaid '931 patent under at least 35 U.S.C. §271(a) by one or more of making, using, offering to sell, and/or selling mowers, including Vantage mowers, within the United States.

32. Defendant Exmark has been and still is infringing the aforesaid '931 patent under at least 35 U.S.C. §271(b) and/or §271(c) by one or more of: aiding and causing operators to use mowers, including Vantage mowers, within the United States; and aiding and causing distributors and/or dealers to sell and offer to sell mowers, including Vantage mowers, within the United States.

33. Defendants have for a time past and still are infringing the '931 Patent, and will continue to do so unless enjoined by this Court.

34. Infringement by Toro has been and continues to be willful, knowing, deliberate, and without a good faith belief that the '931 patent was for some reason invalid or not infringed. Toro has known of Wright's '931 patent since at least as early as 2008 and has continued to willfully infringe the '931 patent regardless of Wright's patent rights. Toro's acts of infringement have been and continue to be willful, as Toro knew or should have known of the '931 patent and that its

manufacture, advertising, inducements, and sales of the accused mowers would infringe the '931 patent, but Toro acted despite an objectively high likelihood that such activities would infringe the '931 patent.

35. The aforesaid infringing actions have had and continue to have the effect of damaging and irreparably harming Wright. Such infringement will continue unless defendants are preliminarily and/or permanently enjoined by this Court.

#### V. COUNT 2 – INFRINGEMENT OF THE '093 PATENT

36. Paragraphs 1-35 and 46 are incorporated herein by reference as if fully set forth in this section.

37. Defendant Toro has been and still is infringing the aforesaid '093 patent under at least 35 U.S.C. §271 by at least selling, advertising, promoting, offering to sell, making, using, causing to be made, causing to be sold, and/or causing to be used mowers in the United States, exemplified by, but not limited to, so-called GrandStand mowers, which fall within the scope of protection of the '093 patent. The infringement of the '093 patent is literal and/or under the doctrine of equivalents.

38. Defendant Toro has been and still is infringing the aforesaid '093 patent under at least 35 U.S.C. §271(a) by one or more of making, using, offering to sell, and/or selling mowers, including GrandStand mowers, within the United States.

39. Defendant Toro has been and still is infringing the aforesaid '093 patent under at least 35 U.S.C. §271(b) and/or §271(c) by one or more of: aiding and causing operators to use mowers, including GrandStand mowers, within the United States; aiding and causing distributors and/or

dealers to sell and offer to sell mowers, including GrandStand mowers, within the United States; and aiding and causing Exmark to make and sell mowers, including Vantage mowers, within the United States.

40. Defendant Exmark has been and still is infringing the aforesaid '093 patent under at least 35 U.S.C. §271 by at least selling, advertising, promoting, offering to sell, making, using, causing to be made, causing to be sold, and/or causing to be used mowers in the United States, exemplified by, but not limited to, so-called Vantage mowers, which fall within the scope of protection of the '093 patent. The infringement of the '093 patent is literal and/or under the doctrine of equivalents.

41. Defendant Exmark has been and still is infringing the aforesaid '093 patent under at least 35 U.S.C. §271(a) by one or more of making, using, offering to sell, and/or selling mowers, including Vantage mowers, within the United States.

42. Defendant Exmark has been and still is infringing the aforesaid '093 patent under at least 35 U.S.C. §271(b) and/or §271(c) by one or more of: aiding and causing operators to use mowers, including Vantage mowers, within the United States; and aiding and causing distributors and/or dealers to sell and offer to sell mowers, including Vantage mowers, within the United States.

43. Defendants have for a time past and still are infringing the '093 Patent, and will continue to do so unless enjoined by this Court.

44. Infringement by Toro has been and continues to be willful, knowing, deliberate, and without a good faith belief that the '093 patent was for some reason invalid or not infringed. Toro has known of Wright's '093 patent since at least as early as 2008 and has continued to willfully infringe the '093 patent regardless of Wright's patent rights. Toro's acts of infringement have been and